**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 3611 OF 2005**

Dr. Anup D. Arya ...Applicant

Versus

State of Maharashtra ...Respondent

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Mr. S.V. Marwadi, Advocate for Applicant

Mr. D.P. Adsule, A.P.P. for State.

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**CORAM: SMT. V.K. TAHILRAMANI, J.**

**DATED: 1ST JULY, 2005**

**P. C.:-**

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of C.R.No. 107 of 2003 and the charge sheet filed in the said case. The said case pertains to D.B. Marg Police Station, Mumbai and it is under Sections 315 & 318 r.w. 34 of I.P.C.

3. The brief facts of the case are that the applicant is a doctor and he owns a hospital i.e. Rajniben Hursing Home at Opera House. On 13.1.2003 an adult unmarried woman gave birth to a child in the hospital of the applicant. The patient was admitted

in the said hospital through Dr. Tarulata Shah, a visiting Gynaecologist. After delivery, the said unmarried lady expressed her desire to give the said child to an adoption centre, hence, witness Dr. Tarulata Shah contacted Dr. Smt. Nanki Bijlani (main accused in the present case) and asked her whether she was ready to take the child in her adoption centre. Dr. Smt. Nanki Bijlani expressed her willingness to take the child in her adoption centre and, hence, the child was given in the custody of the staff members of Asha Nursing Home which is owned by Dr. Smt. Nanki Bijlani. The said child was given to Dr. Smt. Nanki Bijlani on the instructions of Dr. Tarulata Shah. After the child was taken to Asha Nursing Home, the said child fell ill. The child was treated, however, it died after few days and it came to be buried.

4. It is an admitted position that at the time of delivery and at the time of handing over the child, the present applicant was not present in the hospital. The learned A.P.P. was unable to point out any material to show that the applicant was in any way concerned with the handing over of the child by Dr. Tarulata Shah to Dr. Nanki Bijlani. There is nothing on record to show that the applicant is connected in any way with the other accused in handing over of the child to Dr. Nanki Bijlani. In

this view of the matter, in my opinion, no case is made out against the applicant under Section 315 and 318 of I.P.C. Hence, the F.I.R. and charge sheet in relation to the present applicant under Section 315 and 318 of I.P.C. is quashed.

5. Application is allowed in the above terms.

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